UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1297
24 August 1998

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1297th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh to fourteenth periodic reports of the Niger

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (continued)

Draft decision on the Democratic Republic of the Congo

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.98-17734 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eleventh to fourteenth periodic reports of the Niger (CERD/C/299/Add.18; HRI/CORE/1/Add.45)

1. At the invitation of the Chairman, Mr. Abdou-Saleye (Niger) took a place at the Committee table.

2. Mr. ABDOU-SALEYE (Niger) said that he welcomed the opportunity to participate in the work of the Committee and the resumption of dialogue after a hiatus of eight years. The Niger had been experiencing political and administrative instability for some years, which had prevented it from fulfilling its reporting obligations.

3. The Niger's geographical situation and harsh climatic conditions had a bearing on its implementation of the Convention in that competition for land that could be cultivated was fierce and sometimes led to tension between communities. There was chronic food insecurity, droughts were common and desertification further reduced the availability of land for cultivation.

4. The Niger's socio-political situation was no less difficult. Since 1991, efforts to establish a democratic system had been thwarted at every turn. The fall of the Third Republic and the coup d'état in 1996 had ushered in a new period of transition which had seen the drafting of a new Constitution and the holding of a presidential election. Local elections were planned for November 1998. The Niger still had to consolidate itself as a democratic State based on the rule of law and enact legislation guaranteeing fundamental rights and freedoms.

5. The growth rate of the predominantly young population of the Niger was one of the highest in the world and was rising rapidly, at a time of dwindling resources. Approximately half the population was under 15 years of age. It was made up of eight ethnic groups. The largest was the Hausa, which accounted for 52 per cent of the population, followed by the Djerma and Songhai (about 25 per cent), and then the Tuareg and Peulh (8 to 10 per cent). The Arabs, Gurma and Tubu made up the rest. Ethnic groups were also linguistic groups. There were, therefore, eight national languages, with the addition of French as the official language.

6. The Convention was not directly applicable, although the rights it contained were enshrined in the Constitution.

7. Mr. DIACONU (Country Rapporteur) welcomed the presence of a representative of the Niger, the resumption of dialogue with the State party and the additional information provided orally.

8. The report of the Niger (CERD/C/299/Add.18) described the difficulties the country had been facing since 1991 in its efforts to secure democracy and political pluralism. However, it did not mention events that were important from the point of view of implementation of the Convention in the period

covered by the report. The protracted armed conflict between the Government and the northern region of the country which was mostly inhabited by the Tuareg, the final peace agreement and the resolution of the conflict in 1996 were of particular relevance and importance in that the conflict had been between an ethnic group and central Government, and a solution, albeit a fragile one, had been found. The agreement had been reaffirmed and respected by successive Governments of the Niger. Furthermore, members of the armed opposition had been incorporated into the national army and arrangements for the Tuareg ethnic group to participate in the country's political life had been included in the agreement. The way in which the problems had been solved could provide a model for other similar cases. Official information should be provided on relations between the Tuareg and the Government, since the information to hand had come from non-governmental organizations (NGOs) and sources outside the Niger. Information would also be welcome on reports of an allegedly similar conflict between the Tubu and central Government and demands for a degree of autonomy in the region of the Kawar-Manga.

9. There were also reports that smaller ethnic groups, such as the Tuareg, the Peulh and the Kanuri, felt that larger groups, such as the Hausa and the Djerma, were dominating political and economic life, resulting in discrimination against the smaller groups. He requested some information on relations between the ethnic groups in the Niger in terms of the country's political, economic and cultural life.

10. He invited comments on the case, mentioned in the Amnesty International Report 1998, of Hassane Ali, a Tubu and a former local government official who had been arrested in 1996 and apparently died while being held by soldiers.

11. The report failed to provide information on refugees, even though there were many refugees from the Niger in neighbouring countries and vice versa. According to reports, there had been positive developments in recent years thanks to negotiations and the good offices of the United Nations High Commissioner for Refugees, which had led to the return of refugees to their respective countries and the return of the Tuareg, for example, to the Niger. What was the legal status of refugees and what protection was provided, inter alia, to the 10,000 nomadic Malian refugees in Niger?

12. The Committee would be interested to hear more about the languages used in the Niger in view of the concerns expressed by smaller ethnic groups regarding the potential dominance of the Hausa language.

13. The statement in paragraph 14 of the report that racial discrimination did not exist in the Niger was not acceptable. No State could claim that there was no racial or ethnic discrimination in political, economic, social or cultural life, even if instances of such discrimination were temporary phenomena or isolated incidents.

14. The main problem in the Niger in terms of implementing the Convention was to ensure peaceful coexistence between ethnic groups. While the Government had made strenuous efforts to reach and strengthen national unity among all inhabitants, ensure that the peace agreement was implemented, promote the social reintegration of former members of the armed resistance, reintegrate refugees and ensure that all components of the population actively

participated in public administration at all levels, it was regrettable that, as stated in paragraph 14 of the report, no special measures had been taken in accordance with article 2, paragraph 1 (a), (b), (c) and (d), of the Convention, if only to prevent racial discrimination.

15. It should be noted that article 3 of the Convention did not relate only to apartheid but to all forms of racial segregation and to combating any attempts in any country to prevent the free movement of populations on racial or ethnic grounds. Information should be provided in the next periodic report of the Niger from that perspective.

16. Article 102 of the Penal Code of the Niger fell far short of what was required under article 4 of the Convention in that the acts referred to in that article and their motivation were not specifically cited as punishable offences. The Committee would be interested to hear of cases in which there had been prosecutions for acts of racial discrimination and sentences handed down on the perpetrators, for example during the armed conflict between the Government and the Tuareg.

17. The provisions of Order No. 84-6 of 1 March 1984 also failed fully to meet the requirements under article 4, and its provision prohibiting associations of a regional or ethnic character seemed to indicate a violation of article 5 (d) (ix). Legislation in the Niger did not expressly prohibit organizations and propaganda which incited and encouraged racial discrimination, nor did it provide that membership of such organizations or participation in such propaganda activities were punishable offences. The prohibition and definition of associations of a regional or ethnic character should be re-examined in the light of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities which advocated the protection of the cultural identity of members of ethnic groups. While the concern to build national unity was understandable, there was no reason to prohibit cultural or linguistic associations, for example.

18. With regard to article 5 of the Convention, the Committee would welcome detailed information on the participation of various ethnic groups in political life, the conduct of public affairs at any level, economic life and access to social services.

19. He noted the efforts made by the Government with regard to education and cultural activities, including the "nomadic schools" and, at the same time, the resource limitations it faced. Other measures to improve understanding, tolerance and respect among ethnic groups were equally laudable.

20. The Committee would welcome further information on the Niger Association for the Defence of Human Rights, its authority and activities.

21. When the Human Rights Committee had considered the initial report of the Niger (CCPR/C/45/Add.4) in 1993, it had expressed concern in its report (A/48/40) that the Niger was not fully implementing article 27 of the International Covenant on Civil and Political Rights, and regretted the poor turnout for elections, particularly in the north of the country. The Human Rights Committee had recommended that Niger should bring its legislation and

practice into line with the provisions of the Covenant and provide full protection for the rights of ethnic minorities. Those issues were also of concern to the Committee on the Elimination of Racial Discrimination, which would appreciate information on the follow-up to those recommendations or on the Niger's intentions in that regard.

22. Mr. VALENCIA RODRIGUEZ said he hoped that the political situation in the Niger would soon return to normal since political, social and economic stability were preconditions for any efforts to improve respect for human rights. The multi-ethnic nature, very young age and low literacy rate and level of education of the population were factors to be borne in mind by the Government in attempting to restore stability.

23. Turning to the report (CERD/C/299/Add.18), he noted with satisfaction that the Constitution of the Niger guaranteed citizens a range of fundamental rights and freedoms (para. 5) and that its article 8 provided that any specific propaganda of a regionalist, racial or ethnic character or any manifestation of racial or ethnic discrimination was punishable by law (para. 6). He would welcome more information on the specific legislation concerned.

24. The Committee would be circumspect about the assertion that racial discrimination did not exist in the Niger (para. 14), for in the Committee's experience, no State party could make such a claim. He therefore urged the Government of the Niger to pursue without delay a policy of eliminating racial discrimination, in accordance with article 2 of the Convention. Moreover, in view of the striking economic and social disparities between the different ethnic groups in the country, the Government should also consider adopting the measures outlined in article 2.2 of the Convention.

25. He suggested that greater advantage should be taken of the National Day of Concord referred to in paragraph 16 of the report to promote greater tolerance and harmony between different ethnic groups. He realized that such efforts required considerable financial resources, but was confident that the good example set by the Niger authorities would galvanize international support, particularly from NGOs.

26. He requested further details on article 102 of the Penal Code and article 2 of Order No. 84-6 of 1 March 1984, to establish whether they were in full conformity with article 4 of the Convention. He would welcome more specific information on exactly how the rights enshrined in article 5 were protected by the constitutional and legal provisions referred to in the report.

27. With respect to article 6 of the Convention, and referring to the statement in paragraph 42 of the report, he asked what the competent courts and forms of redress were for victims of racial and ethnic discrimination. He presumed that since foreigners enjoyed the same rights as citizens of the Niger they could also seek such redress.

28. As far as article 7 was concerned, he requested the Government of the Niger to pursue its efforts to include civic, moral and human rights education in the school curriculum. In that regard, the establishment of NGOs

and their role in human rights education and the promotion of peace was worthy of note. No mention had been made in the report of action taken or planned in the sphere of culture and information. He hoped that that shortcoming would be rectified in the next periodic report. In conclusion, he hailed the presence of a Niger Government representative, which bore witness to the State party's determination to renew its dialogue with the Committee.

29. Mrs. ZOU, referring to the State party's report, asked for detailed information on the size, language and religion of the eight ethnic groups listed in paragraph 10. Drawing attention to the last sentence of paragraph 14, which referred to legislation banning associations of a regional or ethnic character, and to the definition of such associations given in paragraph 24, she asked what the link was between such associations and racial discrimination, since that was not clear from the definition.

30. Referring to paragraph 29, she asked what exactly was meant by the term "emancipated minors". Also, she was at a loss to understand how elections could be fairly conducted in the Niger, when around 80 per cent of the population was illiterate, and would welcome further information on that score.

31. Paragraph 32 referred to conditions to be met for the acquisition of Niger citizenship, without specifying them. Were people of different ethnic origins accorded the same treatment under the relevant legislation?

32. Lastly, paragraph 41 referred to broadcasting by the Niger National Radio and Television Office. How many languages were spoken in the Niger, apart from French?

33. Mr. NOBEL said that according to the Amnesty International Report 1998, the human rights situation in the Niger gave cause for concern. Extrajudicial executions had reportedly been carried out by security forces, particularly in the eastern regions of the country where the Front démocratique révolutionaire (FDR) was active. The unarmed civilians who had been the victims of such violence had apparently been slain because they belonged to the Tubu ethnic group. He expressed concern about the possible link between violent political conflict and certain ethnic groups. The State party's report failed to shed any light on the subject; it provided scant information on the different ethnic groups in the country and merely acknowledged that a conflict had taken place.

34. He sought clarification concerning the labour-intensive projects under the programme for the social reintegration of demobilized Armed Resistance Organization (ORA) personnel, referred to in paragraph 18 of the report. Did they involve some form of hard labour or were they acceptable rehabilitation projects?

35. The information contained in paragraphs 22 to 24 of the report showed there was clearly some misunderstanding on the part of the Niger authorities: the prohibition of racist propaganda activities should not lead to any curtailment of the right to peaceful assembly and association, which was one of the basic rights protected by article 5 (d) (iv) of the Convention. On the

contrary, the establishment of associations among people from a common ethnic background should be positively encouraged, since it afforded protection to minorities.

36. He hoped that Niger's next periodic report would furnish more detailed information on the link between recent conflicts and the different ethnic groups in the country. He further suggested that the effective implementation of human rights instruments, like the Convention, might help to restore political stability in the country.

37. Mr. de GOUTTES said that the updated information provided in the introductory statement usefully complemented that provided in the unduly brief and long overdue periodic report. The Niger Government's failure to acknowledge the existence of racial discrimination had a series of consequences which posed a number of problems for the Committee. No measures had been taken by the Government pursuant to article 2.1 of the Convention. Furthermore, no cases of racial discrimination had apparently been brought before the courts, owing to the absence of appropriate legislation.

38. With regard to racist propaganda and associations, he would welcome more information on article 102 of the Penal Code and article 2 of Order No. 84-6 of 1 March 1984 to assess whether such provisions fully met the requirements of article 4 of the Convention.

39. It appeared that the peace process launched by the 1995 peace agreement between the Government and the ORA was currently going through a delicate phase involving the disarmament of the ORA and the integration of its members into the State armed and security forces. Amnesty International had also reported the outbreak of conflicts between the Tubu minority and government forces. He sought further details of any problems relating to those ethnic groups.

40. Lastly, what steps was the Government taking to remedy the very grave illiteracy problem facing the country? What was the role and success rate of the "nomadic schools"? What measures had the Government taken or planned to publicize the Convention and to provide information on the fourteenth periodic report and the Committee's concluding observations thereon?

41. Mrs. SADIQ ALI said that apparently Tuareg society was highly stratified and the Ikelan people who lived among the Tuareg were held in servitude. Was there any move to abolish slavery in the Niger?

42. She would welcome more information on the terms of the peace agreement signed between the Government and the ORA in 1995, in particular with respect to the decentralization of powers to the different regions, which was one of the fundamental principles of that agreement.

43. The CHAIRMAN, speaking as a member of the Committee, said he supposed that the majority of the very small literate population in the Niger was French-speaking. Had any steps been taken to replace the official language, French, by another national language? To what extent did the vestiges of

former colonial rule contribute to Niger's current difficulties? In a similar vein, was there any foreign influence or intervention in problems between the Government and different ethnic groups?

44. Mr. WOLFRUM asked whether French was the only language used in the courts of law and for administrative purposes. If so, he would be worried about the implications. For instance, were people who did not have an adequate command of French provided with interpreters during court proceedings? In his introductory statement the representative of the Niger had indicated that the Hausa accounted for 52 per cent of the country's population. Were there any ties between them and the Hausa Fulani in northern Nigeria, given that the frontiers in that region had been established artificially and did not take account of the ethnic composition of the population?

45. The CHAIRMAN recalled that the purpose of the dialogue was to ensure a better understanding of the overall situation in the reporting country, the work of the Committee and the Convention. The rigorous questioning by members of the Committee was a necessary part of that dialogue and should not be viewed as criticism directed at the State party.

46. Mr. ABDOU-SALEYE (Niger) thanked the Country Rapporteur for his detailed analysis of the situation in the Niger and for highlighting various discrepancies in the information contained in the report. He welcomed the constructive dialogue with the Committee. Replying to questions about the various ethnic groups in the Niger, he referred the Committee to the eight ethnic groups listed in paragraph 10 of the report, pointing out that the Djerma and Songhai were generally considered one ethnic group, since they lived in the same region and spoke the same language. None of the ethnic groups mentioned were found exclusively in the territory of the Niger. The Arabs, representing a fairly small percentage of the population, were spread out over the territory of the Niger, with larger settlements concentrated around the frontier with Algeria and in the south of the country.

47. The Gurma straddled the territory of the Niger and Burkina Faso, although their numbers were considerably larger in the Niger. They were usually animists, although the Muslim religion was gaining ground among them.

48. The Hausa accounted for 52 per cent of the population of the Niger and were in fact the second largest ethnic group in Africa. They could also be found in Ghana, Côte d'Ivoire and in Nigeria, where they had been absorbed into the Fulani ethnic group. That was not the case in the Niger where the Fulani constituted a separate ethnic group known as the Peulh. There were of course ties between the Hausa in the Niger and the Hausa Fulani in Nigeria. The first frontiers between the two countries, dating from the nineteenth century, actually passed through villages, so the population now living around the frontier areas were descendants of the same families. Around 90 per cent of the Hausa were Muslims. The Peulh accounted for some 10 per cent of the population of the Niger and could be found in all the countries of the Sahelian region. They were traditionally nomadic livestock breeders.

49. The Kanuri represented around 5 per cent of the population and their numbers were falling, probably because they did not practise polygamy. They lived in eastern Niger but could also be found in Nigeria, Cameroon and Chad.

50. The Tuareg were not a racially homogeneous group. According to a census conducted in the Niger there were more black than white Tuareg. The largest Tuareg population lived in the administrative area of Agadez where, however, it constituted a minority. The second largest Tuareg community could be found in the Tahoua administrative area, where it represented around 20 per cent of the population. The Tuareg also lived in Niamey and other administrative areas. Contrary to popular belief there was no specifically Tuareg territory; the Tuareg had always coexisted with other ethnic groups in the Niger and, although Tuareg people also lived in Mali, Burkina Faso, southern Algeria and southern Libya, the population in the Niger was comparatively the largest in Africa.

51. As to the Tuareg rebellion, which had seized the European imagination, it had been magnified in the French press. It had not been a racial conflict but one with social and economic roots. The Tuareg were nomads, and it was a problem the world over for a Government to administer and provide for the needs of nomads, especially their educational needs, which required regular school attendance. The inexorable desertification and permanent drought in the regions in which they lived, would also compel the Tuareg to change their way of life. In the Niger, the problem had been compounded by the fact that Tuareg often served as mercenaries and, for those of them who did, the use of arms was their only occupation.

52. Seeking to avoid a military solution, the Government had signed the 1995 peace agreement, which made provision for a broad decentralization of authority, applicable not only to Tuareg but to all ethnic groups in the country. The local elections that were, accordingly, to be held in November 1998 for the regional councils through which each ethnic group would direct its own affairs had made it necessary to create a new, decentralized administrative structure in the country, different from the one described in paragraph 9 of the report. The seven departments had become regions, and the 36 arrondissements and 27 administrative centres had become departments, composed of 57 new urban and rural communes.

53. Regarding the follow-up to the peace agreement, the Office of the High Commissioner for the Restoration of Peace (report, para. 17) had supervised the quartering of former combatants, a process that had begun immediately after the signing of the peace agreement and had in no way been intended as a way of confining demobilized rebels to camps, but rather as a way of counting them and directing them into the kind of useful work that would properly reintegrate them into society. The former rebels, some 12,000 in all, had wanted to join the national armed forces, which, however, numbered only about 7,000. Some had, indeed, been incorporated into the army, after retraining; but as many as possible had been absorbed into work under the national development projects drawn up locally but financed by international donors (report, para. 19). Those integrated development projects provided for the building of schools, health clinics and water points for both the

population and their livestock; and a number of former combatants were now also working as forest rangers on reforestation and environmental protection projects.

54. The Tubu rebellion had ended after the signing in Algeria of an additional protocol to the peace agreement, but its provisions had not been respected, owing to internal dissension within the Tubu ranks, which was still producing armed clashes with civilian populations, who had been authorized to defend themselves.

55. The problem of refugees was a result of the civil wars. Fleeing the conflicts, some inhabitants of the Niger had gone to southern Algeria, others to Burkina Faso. At the same time, a number of Tuareg from Mali and Tubu from Chad had fled into the Niger to escape conflicts in those countries. The Office of the United Nations High Commissioner for Refugees had helped set up the National Commission for the repatriation of Niger citizens (report, para. 17), and virtually all the returnees from Algeria had been resettled and given work under the development projects mentioned. The resettlement of the refugees from Chad depended on the progress of events in that country.

56. There were four main national human rights bodies, including the Niger Association for the Defence of Human Rights (ANDDH) (report, para. 46), Democracy, Freedom and Development (DLD), and a national ethnic human rights association. The basic task of those three was to publicize human rights and protect them. At a certain period during the civil wars, they also had taken on a broader political role by trying to bring the two sides together to conclude a peaceful settlement. A fourth body, the Network for the Propagation of Human Rights (Réseau de diffusion des droits de l'homme), a national NGO, organized seminars on human rights in schools, and went from village to village explaining to the population, in the various national languages, the provisions of the main human rights texts, the electoral laws and their duties as voters.

57. In the case of non-French-speaking citizens, court interpreters were always provided in the various national languages. On the subject of the courts, it should be noted that a modern judiciary system coexisted in the Niger alongside the traditional customary courts, in which judgement was rendered by a cadi.

58. On the more legal points raised, he would convey the queries to his Government, and those and other questions not addressed would be dealt with in the next periodic report. He agreed, however, that the legislation banning associations of a regional or ethnic character (report, paras. 14 and 22-24) should be amended to distinguish regional or ethnic organizations with purely political or social aims from those which were racist. He also agreed that special implementing legislation was needed to give effect to the Convention. Its absence was due to the weakness of the institutional framework in the Niger.

59. The CHAIRMAN, speaking in his personal capacity as the only African member of the Committee, said that in his view the Committee should address the role of colonialism in the problems facing a country like the Niger. Many of the conflicts in Africa were due largely to the artificial division of

peoples by frontiers drawn arbitrarily, thus forcing often hostile ethnic groups to live together. Outside intervention in the domestic affairs of former colonies, either by the old colonial Powers or by a new super-Power that was financing revolts in order to substitute its own influence, was a continuing factor as well. African countries could not be expected to deal easily with their own terrible heritage from the colonial past.

60. Although the issue of slavery, another serious problem, was often raised by NGOs, none of them ever supplied the Committee with information about the problems inherited from colonial rule. The Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities never dealt with them either. He believed that the Committee should address them, and perhaps set up a working group to study the effects of the arbitrary colonial borders dividing the peoples of Africa, in the context of the Committee's contributions to the programme for the Third Decade to Combat Racism and Racial Discrimination. Despite the official position of the Organization of African Unity that the question of frontiers should not be reopened, he believed it was an appropriate subject of concern.

61. Mr. DIACONU (Country Rapporteur) said that the frank and constructive dialogue with the delegation had given the Committee a better understanding of the difficulties the country was experiencing in establishing democracy and a nation governed by the rule of law, and had familiarized it with the many different ethnic groups that composed the nation. In general, the Committee needed a better grasp of cross-border mingling of populations. The Government should carry forward the administrative decentralization it had begun, for it was a good way of defusing ethnic tensions. It should continue its resettlement of refugees and proceed with its social and economic plans.

62. The delegation of Niger withdrew.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft decision on the Democratic Republic of the Congo (CERD/C/53/Misc.37)

63. The CHAIRMAN invited the Committee to consider the draft decision contained in document CERD/C/53/Misc.37, which had been prepared by Mr. Wolfrum.

64. Mr. WOLFRUM said that he had omitted the usual request for further information in the final paragraph of the draft decision, because it was not clear to whom the request should be addressed or whether there was any likelihood of information being forthcoming. In his draft, the Committee merely decided to keep the situation under review.

Second preambular paragraph

65. Mr. van BOVEN suggested that the titles, or some other indication of the contents of the Committee's general recommendations mentioned should be included.

66. Mr. WOLFRUM recalled that, when those general recommendations had been adopted, there had been so much controversy about their titles that they had not been given a title at all.

67. The CHAIRMAN, speaking as a member of the Committee and supported by Mr. de GOUTTES, suggested that a footnote should be added indicating where the text of the general recommendations could be found.

68. It was so decided.

69. The second preambular paragraph, as amended, was adopted.

Third preambular paragraph

70. Mr. van BOVEN suggested that the document numbers of the two reports mentioned in the paragraph should be moved to a footnote.

71. It was so decided.

72. Replying to a question by the CHAIRMAN, Mr. WOLFRUM said that the joint mission charged with investigating allegations of massacres and other human rights violations occurring in eastern Zaire (now the Democratic Republic of the Congo) had consisted of Mr. Garretón (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo), Mr. Ndiaye (Special Rapporteur of the Commission on extrajudicial, summary or arbitrary executions) and Mr. Foli (a member of the Commission's Working Group on Enforced or Involuntary Disappearances).

73. Ms. McDOUGALL suggested that the paragraph should include a reference to the report of the Secretary-General's Investigative Team (S/1998/581), which had been submitted to the Security Council in June 1998.

74. Mr. WOLFRUM agreed that the draft decision should refer to the report of the Investigative Team, although he had not used it in the preparation of the current draft because he had been told by the secretariat that it was not yet available. He would study the report and inform the Committee if any changes were needed to the draft decision.

75. The third preambular paragraph, as amended, was adopted.

Paragraph 2

76. The CHAIRMAN, speaking as a member of the Committee, drew attention to the phrase "grave human rights violations committed by all fractions involved in the conflict". Was the term "fractions" intended to include the Government?

77. After a brief discussion in which Mr. SHERIFIS, Mr. DIACONU and Mr. de GOUTTES took part, Mr. WOLFRUM proposed the wording "grave human rights violations committed by forces of the Government of the Democratic Republic of the Congo and all fractions involved in the conflict".

78. Paragraph 2, as amended, was adopted.

Paragraph 3

79. The CHAIRMAN, speaking as a member of the Committee, said that the wording "[the Committee] Deplores the restrictions imposed by the Government ... upon the work of the Special Rapporteur and the Investigative Team ..." was very negative. He suggested the wording "Expresses its concern over reports of restrictions ...".

80. Mr. WOLFRUM said that the Special Rapporteur had originally been guaranteed access to the Democratic Republic of the Congo, but that the Government had subsequently changed its mind and refused him entry. In order to meet the Chairman's concerns, it would be possible to delete paragraph 3 entirely, since paragraph 7 urged the Government to allow the Special Rapporteur and the Investigative Team to "resume their functions, without any preconditions whatsoever".

81. Mr. de GOUTTES said that paragraph 3 should be retained, replacing the word "deplores" with "regrets" or "notes".

82. Ms. McDOUGALL said that, while the Committee should, of course, address States parties in a positive spirit, the Government of the Democratic Republic of the Congo had obstructed the Secretary-General's Investigative Team so blatantly for almost a year that the Committee had to take the matter seriously.

83. The CHAIRMAN said that he wished to withdraw his amendment.

84. Paragraph 3 was adopted.

Paragraph 5

85. The CHAIRMAN, speaking as a member of the Committee, asked whether the paragraph might not be seen as biased, since it called upon the Government to implement its commitment to democracy and respect for human rights, but made no such request of the other parties to the conflict. He also felt that the paragraph did not refer specifically enough to the area covered by the Committee's mandate, namely racial discrimination.

86. Mr. WOLFRUM explained that he had wished to acknowledge the Government's impressive commitment to democracy and human rights, including a provisional constitution which prohibited human rights violations in general and racial discrimination in particular.

87. Mr. DIACONU, supported by Mr. SHERIFIS, suggested that the end of the paragraph should be amended to read: "... the rule of law, in particular the elimination of all forms of racial discrimination".

88. Paragraph 5, as amended, was adopted.

Paragraph 7

89. Ms. McDOUGALL said that, as far as she was aware, there were no plans for the Special Rapporteur or the Investigative Team to return to the Democratic Republic of the Congo or resume their functions, as stated in the paragraph.

90. Mr. WOLFRUM observed that the statement issued by the President of the Security Council on 13 July 1998 (S/PRST/1998/20) called upon the Governments of the Democratic Republic of the Congo and Rwanda to investigate the allegations in the report of the Investigative Team and submit an initial progress report to the Secretary-General by 15 October 1998. The original text of paragraph 7 could be deleted and replaced by a reference to that request.

91. The CHAIRMAN, speaking as a member of the Committee, said that he felt very strongly that it was not for the Committee to echo the requests of the Security Council. The wording suggested by Mr. Wolfrum had nothing to do with the Committee's mandate; if there was a vote on the draft decision, he would vote against that paragraph.

92. Ms. McDOUGALL said that the report of the Investigative Team (S/1998/581) showed that the killings in the Democratic Republic of the Congo were definitely connected with the victims' ethnic origin and thus clearly came within the Committee's mandate.

93. Mr. WOLFRUM quoted paragraph 96 of the Investigative Team's report, which stated that "a large number of Rwandan Hutus" had been "systematically killed" in the Democratic Republic of the Congo. He agreed that the situation studied by the Investigative Team clearly came within the Committee's mandate. He suggested that he should redraft paragraph 7 and submit the new version to the Committee at the beginning of the next meeting.

94. It was so decided.

Paragraph 8

95. Mr. SHERIFIS suggested adding "and to offer appropriate compensation for any such property which cannot be restored" at the end of the paragraph.

96. Paragraph 8, as amended, was adopted.

Paragraph 9

97. Mr. BANTON suggested inserting the words "in relation to racial discrimination" after "human rights situation".

98. Paragraph 9, as amended, was adopted.

99. The CHAIRMAN suggested that the Committee should conclude its consideration of the draft decision at the next meeting.

100. It was so decided.

101. Mr. van BOVEN said that, although it was important for the Committee to address emergency situations such as that in the Democratic Republic of the Congo, and he appreciated Mr. Wolfrum's work on the draft decision, he was not sure of the part the Committee could play in resolving such situations. The Committee could not influence the Government of the Democratic Republic of the Congo in any practical way, because it had not received a representative of the country or established a dialogue of any kind. Perhaps it should concentrate its efforts on making its views known to other United Nations bodies, such as the Office of the United Nations High Commissioner for Human Rights or the Office of the United Nations High Commissioner for Refugees, which were more likely to have some impact on the actual situation in the country. The whole issue of the Committee's early warning and urgent procedures and prevention activities might be a suitable subject for the general debate which some members had suggested should be held at the next session.

The meeting rose at 1 p.m.